

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MICHEL PAYNE,

Plaintiff,

VS.

DOUGLAS COUNTY, NEBRASKA.

Defendant.

8:05CV131

ORDER

This matter is before the court on the amended motion of Andrew M. Ferguson to withdraw as counsel for the plaintiff (Filing No. 40). Mr. Ferguson states he and his client have reached an impasse about how to proceed with this matter making it impossible for current counsel to represent the plaintiff. Mr. Payne responded (Filing No. 42) stating he is unhappy with Mr. Ferguson's representation and releases him as counsel.

Mr. Payne also “prays that the Court will provide Plaintiff with more committed and competent counsel.” **See** Filing No. 42. The court cannot routinely appoint counsel in civil cases. In ***Davis v. Scott***, 94 F.3d 444, 447 (8th Cir. 1996), the Eighth Circuit Court of Appeals explained: “Indigent civil litigants do not have a constitutional or statutory right to appointed counsel. . . . The trial court has broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel, taking into account the factual and legal complexity of the case, the presence or absence of conflicting testimony, and the plaintiff’s ability to investigate the facts and present his claim.” (citations omitted). The plaintiff has capably presented the factual basis for the claims during this proceeding, which he initiated without counsel. The court finds appointment of counsel is not necessary to enable the plaintiff to pursue those claims. Upon consideration,

IT IS ORDERED:

1. The amended motion filed by Andrew M. Ferguson to withdraw as counsel for the plaintiff (Filing No. 40) is granted. The Clerk of Court shall stop all electronic notices to Andrew M. Ferguson regarding this case.

2. The plaintiff's request for appointed counsel is denied. The plaintiff Michel A. Payne is now proceeding *pro se* and counsel for the defendant may communicate with the plaintiff directly.

3. The Clerk of Court shall reassign this case to the *pro se* docket in accordance with the United States District Court for the District of Nebraska Pro Se Procedures III(C)(1).

4. The plaintiff has **until March 30, 2007**, to respond to the defendant's Motion for Summary Judgment in accordance with Federal Rule of Civil Procedure 56 and the Local Rules of the United States District Court for the District of Nebraska, NECivR 7.1 and 56.1.

5. The Clerk of Court shall send a copy of this order to Mr. Payne at:

Michel Payne
2866 Binney Street
Omaha, NE 68111

DATED this 21st day of February, 2007.

BY THE COURT:

s/Thomas D. Thalken
United States Magistrate Judge